

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

TOMMY JORDAN,)	
)	Civil No. 2:06mc3279-F
Petitioner,)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

**UNITED STATES' ANSWER AND CROSS-PETITION TO
JORDAN'S PETITION TO QUASH THIRD PARTY SUMMONS**

The United States of America, by and through its undersigned counsel, in response to the Petition to Quash Third Party Summons filed by Petitioner, admits, denies, and alleges as follows:

FIRST DEFENSE

In response to the specifically numbered paragraphs of the Complaint, Respondent United States of America answers as follows:

1. Admits.
2. Denies that "the summons seeks all documents contained in each and every client file of Petitioner." Admits the remainder of this paragraph.
3. Denies.
4. Denies.
5. Denies.

6. Denies.
7. Denies.
8. Denies.
9. Denies.
10. Denies.

In further response, and pursuant to 26 U.S.C. Sections 7609(b)(2)(A), the United States submits the following:

11. This Court has subject matter jurisdiction to judicially enforce and compel compliance with Internal Revenue Service summonses pursuant 26 U.S.C. Section 7604.
12. Louie Wilson is the Special Agent for the Internal Revenue Service who issued the summonses. He is employed in Criminal Investigation Division in Birmingham, Alabama, and is authorized to issue Internal Revenue Service summonses pursuant to the authority contained in Section 7602 of the Internal Revenue Code of 1986, Title 26 U.S.C. and Treasury Regulations, Section 301.7602-1, 26 C.F.R. Subsection 301.7602-1; IRS Delegation order No. 4 (as revised).
13. Special Agent Louie Wilson is assigned to investigate Petitioner for the 2004 tax year, for the purpose of inquiring into any offense connected with the administration or enforcement of the Internal Revenue laws.
14. As of the date of this petition, no Justice Department referral, as described in 26 U.S.C. § 7602, is in effect with respect to Petitioner.

15. In accordance with the investigation, Special Agent Wilson issued a summons to Petitioner on October 14, 2005.
16. Petitioner resides in Montgomery, Alabama, within the jurisdiction of this court. A copy of the summons is attached as Exhibit 1 to the Declaration of Louie Wilson, which is incorporated by reference into this petition.
17. The summons issued October 14, 2005 was served upon Petitioner by handing an attested copy to Petitioner's attorney Richard L. Pyper on October 14, 2005.
18. Petitioner has failed to appear before Special Agent Wilson as summoned, and that failure continues to the date of this petition.
19. With the limited exception of correspondence between the IRS and Petitioner, the testimony and materials sought by the summons are not in the possession of the Internal Revenue Service.
20. The testimony and materials sought are necessary and relevant to the investigation of Petitioner for the 2004 tax year, for the purpose of inquiring into any offense connected with the administration or enforcement of the Internal Revenue laws.
21. All administrative steps required by the Internal Revenue Code for the issuance of the summons have been met.

WHEREFORE, the United States requests that the court:

- (a) deny the relief sought by the petition to quash;

(b) enter an order enforcing the summons issued to Petitioner October 14, 2005 and directing Petitioner to obey the summons served upon them; and (c) award such further relief as it deems is necessary or appropriate.

DATED this 6th day of March, 2006.

LEURA G. CANARY
United States Attorney

/s/ James T. Lyons
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of March, 2006, I electronically filed the foregoing with the Clerk of the Court using the CMF/ECF system, and I hereby certify that I have mailed by United States Postal Service the foregoing to the following:

Richard L. Pyper
P.O. Box 11706
Montgomery, AL 36111-0706

/s/ James T. Lyons
James T. Lyons